

# HOW TO APPLY FOR A CONDITIONAL USE PERMIT

## ***When is a Conditional Use Permit required?***

Approval of a conditional use permit is required before certain uses may be established in the City. The list of uses requiring a conditional use permit varies by zoning district. Check with the Community Development Department or refer to the zoning district regulations in the Zoning Ordinance to determine whether your project requires approval of a conditional use permit.

## ***What is its purpose?***

The purpose of a use permit is to assure certain uses, as specified in the various zoning districts, are permitted where there is a community need, and the uses occur in maximum harmony with the area and in accordance with city policies and regulations. Conditions which are attached to use permits to ensure harmony may include such things as limits on hours of operation or visual improvements.

## ***What does it cost?***

At the time of filing, an initial deposit of \$4,100 is required. The total cost of a conditional use permit will depend on the time required to process the application. Processing costs are billed on a time and material basis. Progress billings will be invoiced during the review of the project if charges exceed the minimum deposit. A refund will be issued at the completion of the project review if excess funds have been paid.

## ***Who approves a Conditional Use Permit?***

A conditional use permit is approved by the Planning Commission. Actions of the Planning Commission may be appealed within 10 days to the City Council.

## ***What are the steps?***

1. Talk with a Community Development Department staff member in the Development Services Center to determine which regulations apply to your proposed use.

2. Submit a completed application form, filing fee and required materials for review to the Community Development Department's Development Services Center.
3. When your application is submitted to the Development Services Center staff, an applicant's meeting will be scheduled to meet with your project planner and other necessary staff to go over any issues which may have been found during the review of the project. The project applicant and the engineer who prepared the map are asked to attend this meeting.
4. Copies of your proposal will be referred to affected departments and other agencies for comment.
5. Within 30 days of submittal of your application, the project planner assigned to your project will notify you whether your application is complete or if additional information or revised plans need to be submitted.
6. When your application is deemed complete, the Community Development Department will prepare a staff report. A public hearing will be scheduled before the Planning Commission. You will be notified of the date of the hearing.

## ***What materials do I submit?***

See Conditional Use Permit Information Sheet for a detailed list of materials and information which must be filed with your application.

## ***How long does the process take?***

Once the application is determined to be complete with all requested information submitted, the process takes approximately 6 weeks.

Proposals requiring special environmental studies may require additional time. (NOTE: Estimated processing time **does not** include time needed by the applicant to revise and resubmit plans and studies.)

If an Environmental Impact Report (EIR) is required, the process will take considerably longer. A full EIR may take up to one year for processing. (For details about EIR requirements or other environmental concerns, talk with your project planner.

***What is involved in a public hearing?***

Ten days prior to the hearing, the applicant and all owners of property within 300 feet of the boundaries of the project will be notified a hearing will be held before the Planning Commission to review the proposed use. The mailing list uses addresses shown on the latest assessor's records. At the hearing the Planning Commission will consider the staff report and hear testimony from the applicant and members of the public. After the public hearing portion of the meeting is concluded, the Commission may conditionally approve the project, deny it, or continue the matter (with the applicant's consent).

***May a decision be appealed?***

An applicant or anyone else who is dissatisfied with the decision of the Planning Commission may appeal the decision to the City Council. To appeal, a written statement explaining one's objections must be filed with the City Clerk within 10 days after the decision has been made. A public hearing before the City Council will be held in approximately 4 weeks.

***What does an appeal cost?***

The appeal fee of \$50 must be filed by the appellant along with the written statement of objection(s) of the Planning Commission action. The cost of processing the appeal will be borne by the applicant for the project, whether or not the applicant filed the appeal.

***When are hearings held?***

The Planning Commission holds public hearings on the 2nd and 4th Thursdays of each month, except during November, December, and January the schedule may vary, at 7:00 p.m. in the City Council Chambers.

***Are there any other steps I must go through before I open my business?***

If approval is given by the Planning Commission, the project must be submitted to the Development Organization (D.O.) which is located at the Development Services Center for review. The Development Organization will review the project for compliance with the conditions as approved with the conditional use permit. Until all conditions are complied with and documented by the Development Organization as having been completed, the approval by the Planning Commission is considered to be tentative. Once the actual conditional use permit is issued by the Development Organization, the approval is considered to be activated.

The Development Organization (D.O.) provides a "one-stop" coordinated process for the review of projects and building plans which generally result in the issuance of a building permit. The Development Organization consists of staff representatives from Planning, Building, Engineering, and Fire functions. The interdepartmental team reviews each project for compliance with zoning requirements, the General Plan, the State Building and Housing Codes, the Fire Code (including hazardous materials), landscape plans, various Fremont Municipal Codes (such as subdivision grading, street right-of-way and improvement ordinances) and other established development policies.

In addition, any new business or relocated business must apply to the City of Fremont Revenue and Taxation Division for business tax clearance. This is a separate process and the Revenue and Taxation Division must be contacted directly regarding an application.

***Can I get more information?***

If you need additional information or if you have questions, please call (510) 494-4455.



# CONDITIONAL USE PERMITS

## (Initial Application and Amendments)

**Purpose:** The purpose of conditional use permits is to determine the appropriateness of uses which may only be suitable (a) in certain locations in a zoning district, (b) if designed or laid out in a particular manner, and/or (c) subject to specific conditions.

**Code Reference:** Fremont Municipal Code Title 8, Chapter 2, Article 25.

I understand that my plan review may be delayed if required materials are missing from the submittal package.

\_\_\_\_\_  
Project Applicant

\_\_\_\_\_  
Date

### Submittal Requirements:

#### NOTE:

- Indicates an item which is always required.
- Indicates an item which may be required, depending on the project. The staff person who provides you this sheet will check (✓) the box if the item is required for your application.

- 1. A completed application form including:

Part I: Project information and the current property owner(s) signature authorizing the project proposal.

Part II Reimbursement Agreement with signature of the billing party acknowledging responsibility for charges.

Part III: A list of all consultants proposed to be involved with the project, or a statement that none are proposed to be involved.

Part IV: A statement signed by the applicant indicating whether the project site is found on the Hazardous Waste and Substances Sites List pursuant to California Government Code Section 65962.5.

Part V: Affordable Housing Plan Proposal for all residential projects resulting in two or more net new units or lots.

Part VI: Development Statistics

■ 2. Plans including the following items:

■ a. Vicinity map showing a one-half mile radius of the site.

■ b. Accurately dimensioned site plan showing:

(1) Property lines.

(2) Location, configuration and setbacks of all existing and proposed buildings and intended uses for the buildings and site, including occupancy classification and type of construction as defined in the Building Code.

(3) Parking, vehicle circulation areas and driveways.

(4) Pedestrian ways and recreation areas, existing and proposed.

(5) Development Reserve Boundary, Toe-of-the-Hill and Ridgeline, where applicable.

(6) Fencing.

(7) Easements on the property.

(8) All fire hydrants within 300 feet of the project site.

(9) All land uses surrounding the project site (may be listed on a separate sheet).

□ c. Schematic landscape plan, new or modified.

■ d. Elevations showing:

(1) Each side of all proposed buildings and/or existing buildings, and/or the sides proposed to be modified.

(2) Materials and colors to be used on each elevation.

- e. Floor plans, indicating all intended uses of each area.
- f. Tree Survey Plan showing the following:
  - (1) Existing and proposed site features, including but not limited to buildings, walls, paving, grading, etc.
  - (2) Tree(s) trunk six-inch DBH (trunk diameter at 4.5-feet above ground level) and larger located on plan by a licensed surveyor, and with accurate canopy outline.
  - (3) Trees labeled by number and tagged on-site per ISA standards.
  - (4) Summary table identifying botanical designation, DBH, and elevation of tree at ground level.

NOTE: Additional analysis by a certified arborist may be required pending review of tree survey and other required project plans. If no trees exist on site, provide a statement by the civil engineer or surveyor indicating this, as an alternative to the required tree survey.

- g. Two copies of a current preliminary title report for projects that involve construction of a new building or expansion of an existing building footprint and/or new site improvements such as landscaping, special paving, utilities and accessory structures.
- 3. The number of plans to be submitted with the application are:
  - a. Ten (10) sets of full-sized plans, collated and folded to a size NO LARGER THAN 8" x 13".
  - b. One (1) set of the plans reduced to 11" x 17", collated and folded to 8 1/2" x 11".

Your project planner will request you submit the following materials 21 days before your public hearing or action date.

- c. Three (3) sets of full size plans.
- d. Seventeen (17) sets of plans reduced to 11" x 17", collated and folded to 8 1/2" x 11".
- e. CD-ROM with all the required plans in PDF format.

Full-size plans submitted should be no larger than 30" x 42".

- 4. Statistics checked below may be indicated on the site plan or on a separate sheet:
  - a. Building floor area (measured from the exterior faces of the walls less any areas within the buildings devoted to parking/circulation, malls and similar areas).
  - ☐ b. An inventory of all tenant spaces on the property, listing the address (or suite number), type of business (or other use of the space) and floor area for each.
  - ☐ c. Floor Area Ratio (FAR) calculations, for commercial or industrial projects. When the FAR is proposed to exceed the threshold provided in the General Plan, the applicant shall include information to support the findings required. See Planning Form 36 for details.
  - ☐ d. Building coverage of site.
  - e. Number of parking spaces, specifying the number of full size, handicapped, and compact spaces.
- 5. Ten (10) copies of a statement of proposed operations and design concept. The statement shall be prepared as a letter separate from the information required on the application forms. This statement shall include, if applicable, the hours and days of operation, a detailed description of the activities proposed under this project, and a description of the proposal.
- ☐ 6. This project will be subject to the requirements of Article 21.7, Inclusionary Housing, of the Fremont Municipal Code. The Inclusionary Housing Ordinance generally requires that 15% of the units within your project be made affordable. Details and specifics of the ordinance requirements are available at the Development Services Center, Office of Housing and Redevelopment and on line at [www.fremont.gov](http://www.fremont.gov). Your project proposal should include a brief written statement as to how you propose to comply with the provisions of the ordinance and identify the proposed location of affordable units within the project.
- ☐ 7. A material and color sample board with an overall size no larger than 11" x 17". The sample board shall include exterior finish material and colors for all visible surfaces including ground paving, walls, roofs, glazing systems, etc. The manufacturer's or supplier's names along with the color code and model numbers for each material or color shall be included on the material and color board. Any additional information necessary to clearly identify the specific materials proposed to be used shall also be included. Both finish and color shall be labeled and keyed to the elevations.
- 8. Two complete copies of the Impervious Surfaces Form (<http://fremont.gov/ISF>).

**Hearing Notification:** The City will notify all property owners, as well as business and residential tenants within the appropriate radius from your project site. Most projects require a 300-foot radius, while some require a 1,000-foot radius based on the sensitivity of the project and the level of community input anticipated or required.

As with all other costs, you will be billed for staff time to research, create and label the required postcards. If the public hearing is delayed for an extended period of time after notices for your project have been mailed, you will be charged the cost to re-mail postcards.

**Incomplete Applications:** An application is considered to be incomplete if any of the items checked on this information sheet have not been included. Processing of the application will be delayed until the submittal is determined to be complete.

**Schedule Time Line:** When a complete application is submitted, a file will be prepared. The applicant will be notified by mail as to who the project Planner is within approximately one week of submittal. Staff from the Planning, Building, Police and Fire Departments at the City Technical Coordinating Committee (CTCC) meeting will review the project. The CTCC will determine if the project meets general ordinance and policy requirements as well as to determine the project's completeness. The project Planner will schedule a meeting with the applicant to discuss the project approximately three weeks from the date of project submittal. The applicant will be notified of the date and time of the meeting by letter once the project has been assigned. Any issues identified by the CTCC or staff planner will be discussed during the applicant meeting. If additional information or revised materials are required, it must be submitted at least 21 days before the Planning Commission hearing date to allow time for staff review.

**The Planning Commission Hearing:** The Planning Commission is a seven-member board appointed by the City Council. The Planning Commission reviews projects such as Conditional Use Permits, Tentative Parcel Maps, Tentative Tract Maps, Findings and Preliminary Grading Plans. The Commission is the first reviewing body for applications such as Planned Districts, General Plan Amendments and Zoning Text Amendments prior to review by the City Council. The applicant and other project representatives should attend the Commission hearing, even if the project is a consent item, as the Planning Commission could determine your project requires discussion prior to taking action.

**Appeals of Planning Commission Action:** Appeals of Planning Commission action are considered by the City Council. Appeals to the City Council must be submitted in writing to the City Clerk within 10 calendar days of the Planning Commission action. Your appeal letter must be accompanied by a \$50 appeal fee and must set forth (a) the specific action appealed from, (b) the specific grounds of the appeal and (c) the relief or action sought from the City Council. For additional details regarding appeals to the City Council, contact the City Clerk's office, 3300 Capitol Avenue, Fremont, CA 94538, phone: (510) 284-4060.

## **Development Impact Fees:**

### ***Commercial and Industrial Buildings***

Development impact fees may be assessed if your project involves new construction or additional floor area. If the project involves a change of use in a building, development impact fees may also be assessed. For example, a change from a warehouse to an industrial classification or a change from retail to an office would require Development Impact Fees be paid. A credit will be applied to the value of fees for the previous use category and a charge will be applied for the fees of the new use category. There are three categories of Development Impact fees assessed for commercial and industrial buildings: Traffic, Capital Facilities and Fire Protection Fees.

### ***Residential Developments***

New residential dwellings (single family and multi-family projects) always trigger payment of Development Impact Fees. In addition to the fee categories assessed for commercial and industrial buildings, new residential construction also requires the payment of Park Facilities and Park Dedication In-Lieu fees.

For further information on Development Impact Fees, please refer to the Development Impact Fee schedule available in the Development Services Center or speak with a Development Services staff member.

Fees: The minimum deposit is \_\_\_\_\_ and is due at the time of submittal. The actual charge will be based on staff time required to process the application, including any appeal. Progress billings will be invoiced during the review of the project if charges exceed the minimum deposit. A refund will be invoiced at the completion of the project review if excess funds have been paid.

In addition, payment of citywide development impact fees may be required as a condition of approval for your project.

Requirements described on this sheet are subject to change. If you need additional information or clarification to prepare your submittal please contact the staff person who furnished you this sheet for further assistance.

Information sheet furnished by: \_\_\_\_\_ Phone: (510) 494-\_\_\_\_\_

for proposal: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_



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## Affordable Housing Plan Proposal

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**Applicability:** Residential projects containing two or more net new living units or residential lots, or a combination of living units and residential lots, are required to provide the affordable housing per Fremont Municipal Code Title 8, Chapter 2, Article 21.7, Affordable Housing. Compliance with the affordable housing ordinance can be achieved through the basic requirement or, if approved, use of an alternative to the basic requirement. Below, identify how the residential project proposes to comply with the affordable housing ordinance by placing a “✓” in the appropriate section.

**Basic Requirement:** The affordable housing obligation is achieved differently for for-sale and rental residential projects, as described below:

\_\_\_\_\_ *For-sale projects:* For projects deemed complete by December 31, 2014, at least 15% of all living units in any for-sale residential project shall be made available at affordable cost to moderate income households. Effective January 1, 2015, the project’s affordable requirement increases to 20% of all living units. (FMC §8-22172(a)(1))

\_\_\_\_\_ *Rental projects:* Rental projects not receiving any City assistance comply with the affordable housing obligation through payment of the affordable housing impact fee. (FMC §8-22172(b)(1))

**Alternatives to Basic Requirement:** If one of the allowed alternatives to the basic requirement is proposed, identify the alternative below and describe how the project would comply with the specific FMC requirements for alternatives (FMC §§8-22177(a) through 8-22177(f)).

\_\_\_\_\_ *Provision of rental units:* Where ownership affordable units are required to comply with the basic requirement, the applicant may construct rental units affordable to moderate, low, and very low income households at rents prescribed in FMC §8-22177(a)(1). (FMC §8-22177(a))

\_\_\_\_\_ *Off-site construction:* The applicant may propose to construct affordable units on another site. (FMC §8-22177(b))

\_\_\_\_\_ *Property dedication:* The applicant may propose to dedicate, without cost to the City, property within or contiguous to the residential project sufficient to accommodate at least the required number of affordable units for the residential project. (FMC §8-22177(c))

\_\_\_\_\_ *Purchase of existing market-rate units:* The applicant may propose to purchase existing market-rate units not subject to any affordability covenants and convert them to affordable housing, or to purchase affordability covenants for existing market-rate units, to provide the required affordable housing. (FMC §8-22177(d))

\_\_\_\_\_ *Preservation of affordable units at risk of loss:* The applicant may propose to preserve existing affordable units at risk of loss to provide the required affordable housing. (FMC §8-22177(e))

\_\_\_\_\_ *In-lieu fee payment:* The applicant may pay a fee in-lieu of construction of affordable units on site. (FMC §8-22177(f))

**Case No.:** \_\_\_\_\_

***Achievement of Alternative Requirements:*** If an alternative to the basic requirement is proposed, describe how the requirements for the selected alternative, as described in FMC §§8-22177(a) through 8-22177(f), would be achieved (attach a separate sheet, if needed):

This image shows a single page of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Signature of Applicant

Date \_\_\_\_\_

Applicant's Printed Name